

BEFORE THE BOARD OF OSTEOPATHIC EXAMINERS  
IN MEDICINE AND SURGERY OF THE STATE OF ARIZONA

In the Matter of:

MARK CLEMENTS, D.O.

Holder of License No. 2355  
For the Practice of  
Osteopathic Medicine in the  
State of Arizona

No.

CONSENT TO ENTRY OF ORDER  
AND FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

A complaint charging MARK CLEMENTS, D.O., Holder of License No. 2355 for the practice of Osteopathic Medicine and Surgery in the State of Arizona with unprofessional conduct as provided in A.R.S. § 32-1854 having been received by the Arizona Board of Osteopathic Examiners in Medicine and Surgery ("Board"); and Mark Clements, D.O., having expressed a desire to execute a Consent to Entry of Order ("Order") pursuant to A.R.S. § 41-1061(D) in lieu of participating in a public hearing concerning the allegations contained in the complaint;

THEREFORE, in lieu of further proceedings and as a final disposition of this matter:

(1) Mark Clements, D.O. admits that the Findings of Fact and Conclusions of Law set forth are true and accurate.

(2) Mark Clements, D.O. admits that the conduct described in this Order is unprofessional conduct as provided by A.R.S. § 32-1854.

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To: <i>Dr. Nash</i>	From: <i>Robert Y. Miller</i>	
Co.	Co. <i>O. B. E. X</i>	
Dept.	Phone #	
Fax # <i>602-825-3523</i>	Fax # <i>255-1756</i>	

1 (3) Mark Clements, D.O. acknowledges that the record  
2 prepared in this matter, all investigative material prepared and  
3 received by the Board concerning the allegations, and all  
4 related exhibits and materials may be retained in the Board's  
5 file pertaining to this matter.

6 (4) Mark Clements, D.O. understands that pursuant to  
7 A.R.S. § 32-1855, he has the right to a public hearing  
8 concerning each allegation set forth in the above captioned  
9 matter at which Mark Clements, D.O. could present evidence and  
10 cross-examine witnesses. Mark Clements, D.O. waives his right  
11 to such hearing.

12 (5) Mark Clements, D.O. waives any right to rehearing  
13 or review or to judicial review of the Findings of Fact,  
14 Conclusions of Law or Order.

15 (6) Mark Clements, D.O. acknowledges that based upon  
16 the Findings of Fact and Conclusions of Law, coupled with his  
17 admission thereto, and pursuant to A.R.S. § 32-1855, the Board  
18 is authorized to take formal disciplinary action against his  
19 license to practice osteopathic medicine and surgery.

20 (7) Mark Clements, D.O. understands that he has the  
21 right to consult with an attorney prior to signing this Consent  
22 to Entry of Order.

23 (8) Mark Clements, D.O. acknowledges that the Findings  
24 of Fact, Conclusions of Law and Order contained herein are  
25 conclusive evidence of unprofessional conduct which may not be  
26 disputed, denied or relitigated in any future proceeding and may

1 be used for purposes of determining sanctions in any future  
2 disciplinary matter.

3 (9) Mark Clements, D.O. hereby authorizes any  
4 attending physician, psychiatrist or psychologist to release to  
5 the Board all records pertaining to his care and treatment.

6 (10) Mark Clements, D.O. acknowledges that any  
7 violation of this Order by him constitutes grounds for further  
8 disciplinary action for unprofessional conduct pursuant to  
9 A.R.S. § 32-1854(26).

10 (11) Mark Clements, D.O. acknowledges that this Order  
11 will be effective only upon its acceptance by the Board.

12 DATED this 21 day of Nov., 1990.

13  
14  
15 \_\_\_\_\_  
16 Attorney for Respondent

17 Mark Clements D.O.  
18 Respondent

19 Pursuant to the foregoing Consent to Entry of Order,  
20 the evidence contained in the Board's records and files in this  
21 matter, and good cause appearing, the Board makes the following:

22 FINDINGS OF FACT

23 I

24 The Board of Osteopathic Examiners in Medicine and  
25 Surgery is the duly constituted authority for the regulation and  
26 control of osteopathic medicine and surgery in the State of  
Arizona.

## II

1 Mark Clements, D.O. is the holder of License No. 2355  
2 for the practice of osteopathic medicine and surgery in the  
3 State of Arizona pursuant to Title 32, Chapter 17 of the Arizona  
4 Revised Statutes.

## III

6 On or about October 17, 1990, employees of the  
7 Occupational Health Center ("Center"), in Tucson, Arizona,  
8 discovered missing from the Center's inventories certain  
9 quantities of Lortabs, i.e. hydrocodone, a Schedule III  
10 narcotic, and Darvocet, i.e. propoxyphene, a Schedule III  
11 narcotic, which medications had been available for dispensing to  
12 patients.

## IV

14 On a date prior to October 23, 1990, MARK CLEMENTS,  
15 D.O., who was then practicing osteopathic medicine under the  
16 auspices of the Center, administered to himself Lortabs from  
17 Center inventories for the relief of pain due to a back injury.  
18 MARK CLEMENTS, D.O. was not under a physician's care and had not  
19 been prescribed Lortabs.

## V

21 On a date prior to October 23, 1990, MARK CLEMENTS,  
22 D.O. administered to himself an amount of the medication Xanax  
23 from samples in his possession for the purposes of relief of  
24 pain due to a back injury. MARK CLEMENTS, D.O. was not under a  
25 physician's care and had not been prescribed the Xanax.  
26

VI

On various occasions prior to October 23, 1990, MARK CLEMENTS, D.O. removed various amounts of Lortabs and Darvocet from bottles of medications at the Center which were intended for Center patients.

VII

On October 23, 1990, MARK CLEMENTS, D.O. stated to an investigator for the Board: "I'd like to admit that I have a problem with abuse of controlled substances, and I'd like to go through treatment and get help."

VIII

On or about October 23, 1990, MARK CLEMENTS, D.O. provided to an investigator for the Board a sample of his urine. Subsequent laboratory analysis of the specimen revealed the presence of Xanax, i.e. alprazolam; Darvocet, i.e. propoxyphene; and cannabinoid, i.e. marijuana metabolite.

CONCLUSIONS OF LAW

IX

The Board of Osteopathic Examiners in Medicine and Surgery of the State of Arizona possesses jurisdiction over the subject matter hereof and over Mark Clements, D.O.

X

The conduct described in paragraphs III through VIII herein constitutes unprofessional conduct as defined in A.R.S. § 32-1854(5): Prescribing, dispensing or administering controlled substances or prescription only drugs for other than

accepted therapeutic purposes.

XI

The conduct described in paragraphs III through VIII herein constitutes unprofessional conduct as defined in A.R.S. § 32-1854(19): Any conduct or practice contrary to recognized standards of ethics of the Osteopathic Medical Profession or any conduct or practice which does or might constitute a danger to the health, welfare or safety of the patient or the public or any conduct, practice or condition which does or might impair the ability safely and skillfully to practice medicine.

XII

The conduct described in paragraphs III through VIII herein constitutes unprofessional conduct as defined in A.R.S. § 32-1854(22): Use of controlled substances or prescription only drugs.

ORDER

IT IS HEREBY ORDERED that MARK CLEMENTS, D.O. be placed on probation for a period of three years, commencing from the date of this Order. The terms of probation are as follows:

(1) MARK CLEMENTS, D.O. shall submit to random urinalysis testing administered by the Board. Samples of biological fluids of MARK CLEMENTS, D.O. will be collected by an agent of the Board at times which are within the sole discretion of the Board. All costs associated with the collection and analysis of such fluids shall be borne by MARK CLEMENTS, D.O.

(2) MARK CLEMENTS, D.O. shall undergo and successfully complete a chemical abuse treatment program consisting of at least two individual counseling sessions per month and two group counseling sessions per month with and under the supervision of a psychiatrist or psychologist approved by the Board ("therapist"). Within fourteen days following the commencement of probation, MARK CLEMENTS, D.O. shall submit to the Board a list of five individuals who are psychiatrists or psychologists available to provide psychotherapy as required herein. The Board or its designee shall thereupon advise MARK CLEMENTS, D.O., which, if any, of the proposed individuals are approved by the Board. If none of these individuals proposed by MARK CLEMENTS, D.O. meets with the Board's approval, MARK CLEMENTS, D.O. shall, within fourteen days following receipt of notification of such fact, submit a list of five different psychiatrists or psychologists for Board approval. The costs of all treatment as required herein shall be borne by MARK CLEMENTS, D.O.

(3) MARK CLEMENTS, D.O. shall enter a treatment plan with the therapist wherein, within fourteen days after the Board's approval of the therapist, the therapist shall submit to the Board in writing an initial evaluation and diagnosis with regard to MARK CLEMENTS, D.O. and his or her treatment plan which shall conform at least to the minimum requirements set forth in subparagraph (2) above. The plan shall further require that every three months thereafter, the therapist submit to the

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OSTEOPATHIC BOARD  
CLEMENTS, D.O.,

Board a written report with regard to MARK  
1 setting forth a description of the treatment provided to include  
2 dates of treatment, an evaluation of progress to date and his or  
3 her prognosis. In addition, every three months, MARK CLEMENTS,  
4 D.O. shall submit to the Board in writing a description of his  
5 treatment and his personal evaluation of his progress.

6 (4) MARK CLEMENTS, D.O. shall continue in the above  
7 described and referenced chemical treatment program for a period  
8 of one year unless he is released therefrom by the Board based  
9 upon the Board's determination of successful completion. Any  
10 request to be released from the program must be submitted in  
11 writing and accompanied by the written recommendation from the  
12 therapist setting forth his or her evaluation of progress,  
13 current diagnosis and prognosis. Whether there has been  
14 successful completion as required in subparagraph (2) above so  
15 as to allow release from the chemical abuse treatment program is  
16 a matter to be determined solely by the Board.

MC 17 (5) MARK CLEMENTS, D.O. shall use no controlled  
18 substance or prescription-only medication unless prescribed by  
19 his attending physician, and shall consume no alcohol. MARK  
20 CLEMENTS, D.O. shall notify the Board in writing of any substance  
21 or medication prescribed him by a physician within twenty-four  
22 hours after such prescription is ordered by the attending  
23 physician.

24 (6) MARK CLEMENTS, D.O. shall meet regularly with the  
25 Board as ordered by the Board in its discretion to review his  
26 compliance with the terms of this Order.



(7) MARK CLEMENTS, D.O. shall authorize any attending physician, psychiatrist or psychologist to release to the Board all records pertaining to his care and treatment.

DATED this 21 day of November, 1990.

ARIZONA STATE BOARD OF OSTEOPATHIC  
EXAMINERS IN MEDICINE AND SURGERY

[S E A L]

By 

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CIV90-1855